IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

WP(C).No. 23355 of 2007(E)

PETITIONER:

T.S.SUJA MON,S/O.T.M.ABDUL SALAM,
AGED 37 YEARS,PROPRIETOR,KULS AYURVEDA HERBAL
PRODUCTS,DOOR NO.6/345A,KANJIRAPALLY,
KOTTAYAM DISTRICT - 686 507.

BY ADV. SRI.JIJO PAUL

RESPONDENTS:
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1. THE SUPERINTENDENT OF POLICE, IDUKKI.

2. THE SUB INSPECTOR OF POLICE, KATTAPPANA.

BY GOVERNMENT PLEADER SRI.P.A.SALIM.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR & K.T.SANKARAN,JJ.

W.P.(C). NO. 23355 OF 2007 E

Dated this the 3rd August, 2007

JUDGMENT

BALAKRISHNAN NAIR, J.

The petitioner submits that he is a manufacturer of Ayurvedic medicines. He is running a unit manufacturing various 'arishtoms' and 'asavams' at Kanjirapally in Kottayam District. He has got all the requisite licences from the statutory authorities for manufacturing Ayurvedic medicines, which may even contain a limited percentage of alcohol. When a consignment of Ayurvedic medicines was being transported, the second respondent intercepted the vehicle, seized the consignment along with the vehicle and a crime has been registered against the persons accompanying the consignment. Ext.P7 is the First Information Report. The offences alleged against the accused are under Sections 56(A)(1), 58 and 58(B)(1)(c) of the Abkari Act. They are cognizable offences. That is why a crime is registered and FIR is forwarded to the Magistrate concerned. The petitioner submits, the above action of the second respondent is a harassment and we should restrain the Sub Inspector from intercepting the vehicle carrying Ayurvedic medicines manufactured by the petitioner.

2. Learned Government Pleader, upon instructions, submitted that no documents were accompanying the consignment and therefore, they were seized. It is also submitted that though the petitioner appeared before the police, he did not claim that he is having the necessary licence and permits to manufacture Ayurvedic medicines. It is also submitted that suspecting that the bottles contained intoxicated liquor, samples have been sent for chemical analysis.

3. The petitioner denies the allegations of the learned Government Pleader.

4. What the Police Officer has done was to seize a consignment of medicines, which was not accompanied by any documents to show that they were Ayurvedic medicines except the labels on the bottles. The Police Officer, prima facie, found that certain offences under the Abkari Act were made out. Therefore, crime has been registered and he is investigating the crime. We feel that as long as the offences alleged against the accused are cognizable offences, the police is only discharging its duty with which we cannot interfere. We cannot injunct the Police Officer from discharging his functions under the provisions of various Acts including those under the Code of Criminal Procedure. Therefore, the prayer in the Writ Petition cannot be granted. It is clarified that this order will not affect the defence available to the accused in the criminal case.

5. But, if any consignment supported by valid documents for its transport is illegally seized by any Officer, the petitioner can work out his remedy.

Subject to the above observation, the Writ Petition is dismissed.

(K.BALAKRISHNAN NAIR)
Judge

(K.T.SANKARAN)
Judge

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